

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

**ANN MARIE JOHNSON and
JAYLEN JOHNSON,**

Plaintiff,

VS.

MARY CAHILLANE,

Defendant.

)
)
)
)
)
)
)
)
)
)

2:22CV180-PPS/JEM

OPINION AND ORDER

Ann Marie Johnson, a plaintiff acting without an attorney, has filed a complaint, a motion for leave to proceed in forma pauperis, and an Emergency Motion to Stay Eviction. [DE 1, 2, 4.] Ann Marie's young adult son, Jaylen, is also listed in the complaint as a plaintiff, and has filed a motion to proceed in forma pauperis, but has not signed the complaint. [DE 1, 3.] The complaint identifies a dispute between Ann Marie and her landlord, Mary Cahillane, with Ann Marie alleging that Cahillane is seeking an eviction even though Cahillane agreed to accept – and has received – rent payments through the Indiana Emergency Rental Assistance Program. [DE 1 at 2.] The dispute has already been taken to the state courts, where Cahillane initiated eviction proceedings in August 2021. The Johnsons have staved off eviction since then, but it appears that, after an unsuccessful trip to the Court of Appeals, they are facing an emergency eviction hearing scheduled for Wednesday, July 13. On Friday, July 8, Ann Marie filed this action in federal court seeking to halt eviction for 60 more days.

Because Johnson asks to file her case without payment of the filing fee that is ordinarily required, the complaint is subject to a review on the merits. Under 28 U.S.C. §1915(e)(2)(B), “Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that...(B) the action...(i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief.” This standard requires dismissal if the complaint is meritless, which includes a complaint which does not support the exercise of federal jurisdiction.

Federal courts have limited subject matter jurisdiction, falling principally into two categories. One category, known generally as “federal question jurisdiction,” is for matters raising questions of federal law. *See* 28 U.S.C. §1331. Ann Marie does not invoke any federal laws, and the allegations of the complaint disclose no matter governed by federal law. The second category of cases supporting federal subject matter jurisdiction involves disputes between parties who are citizens of different states over a minimum threshold amount in controversy of \$75,000. *See* 28 U.S.C. §1332. This is generally referred to as diversity jurisdiction. The complaint makes plain that both the Johnsons and their landlord reside in Chesterton, Indiana. Although citizenship and residence are distinct concepts, there is no reason on the record before me to think that the parties are not all citizens of Indiana. That being so, diversity jurisdiction does not appear to apply.

Without jurisdiction, a court has no authority to act. Because the complaint does not plausibly demonstrate that the case presents either a federal question or subject matter jurisdiction based on diversity of citizenship, I can grant no relief to the Johnsons on their landlord-tenant dispute. As a result, the Johnsons' motions to proceed in forma pauperis and the motion for emergency relief against eviction will be DENIED, and the case will be dismissed from federal court, without prejudice to any recourse the Johnsons may have elsewhere.

ACCORDINGLY:

Because there appears to be no basis for the exercise of federal subject matter jurisdiction over the complaint, the motions of plaintiffs Ann Marie Johnson and Jaylen Johnson for leave to proceed in forma pauperis [DE 2, 3] are DENIED, the Emergency Motion to Stay Eviction [DE 4] is DENIED, and this case is DISMISSED WITHOUT PREJUDICE.

The case is now CLOSED.

SO ORDERED.

ENTERED: July 11, 2022.

/s/ Philip P. Simon
PHILIP P. SIMON, JUDGE
UNITED STATES DISTRICT COURT